

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

05 AUG 30 PM 1:53

THYSSENKRUPP ELEVATOR  
MANUFACTURING, INC.,

THOMAS M. GOULD  
CLERK, U.S. DISTRICT COURT  
W/D OF TN, MEMPHIS

Plaintiff,

v.

No. 05-2317 D/P

MICHAEL R. SUTTON d/b/a  
DMCELEVATOR.COM,

Defendant.

CONSENT INJUNCTION

Upon joint motion of Plaintiff ThyssenKrupp Elevator Manufacturing, Inc. ("ThyssenKrupp") and Defendant Michael R. Sutton d/b/a dmcelevator.com ("Defendant"), the Court hereby enters this Consent Injunction, ordering as follows:

1. Defendant, and any entity controlled or owned by or acting at the direction of Defendant, is hereby permanently enjoined from improperly acquiring, and from utilizing, distributing, offering for sale, and/or selling, any ThyssenKrupp Proprietary Information, other than with the prior express written permission of ThyssenKrupp. For purposes hereof, ThyssenKrupp Proprietary Information shall include ThyssenKrupp's Intelligent Management System Tools; DMS software; any other ThyssenKrupp proprietary software; any confidential or proprietary documentation, manual or user's guide relating to such software; and any other confidential or proprietary information belonging to ThyssenKrupp that constitutes a "trade secret" under Tenn. Code Ann. § 47-25-1702.

This document entered on the docket sheet in compliance  
with Rule 58 and 19(a), on

14

2. Defendant, and any entity controlled or owned by or acting at the direction of Defendant, is hereby permanently enjoined from improperly acquiring, and from distributing, offering for sale, and/or selling, any information, materials, documents or software that are or have been derived or developed from ThyssenKrupp Proprietary Information, other than with the prior express written permission of ThyssenKrupp.

3. Defendant, and any entity controlled or owned by Defendant, is hereby permanently enjoined from (a) reproducing or copying by any means, (b) preparing derivative works, and (c) distributing reproductions, copies, or derivative works, of any ThyssenKrupp Proprietary Information, other than with the prior express written permission of ThyssenKrupp. To the extent that Defendant has not already done so, Defendant shall, in the presence of an authorized representative of ThyssenKrupp or as otherwise directed by ThyssenKrupp, delete, destroy, or otherwise render unusable all ThyssenKrupp Proprietary Information in his possession, custody, or control, within five (5) business days of the entry of this Consent Injunction.

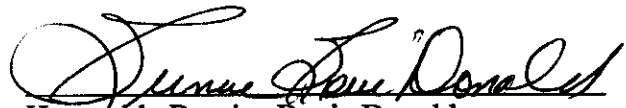
4. Any request on the part of Mr. Sutton concerning ThyssenKrupp Proprietary Information, including the possession or handling thereof, shall be directed to undersigned counsel for ThyssenKrupp. If ThyssenKrupp or its representatives do not respond affirmatively within ten (10) business days to Mr. Sutton's request, said request shall be deemed denied.

5. Nothing herein shall prevent Mr. Sutton from reviewing or analyzing material, data or information of ThyssenKrupp that is (a) publicly available or (b) has been lawfully acquired by Mr. Sutton or one of his clients without any obligation to maintain its confidentiality, provided that any such actions are performed in compliance with paragraphs 1-3 hereof.

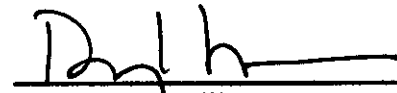
6. If ThyssenKrupp believes or asserts that Defendant has committed a violation of this Consent Injunction, ThyssenKrupp shall give written notice to Defendant of any and all such violation(s), with requisite details supporting such violation(s), before petitioning the Court for any redress. Defendant will thereafter have ten (10) days to address and, if possible, cure such violation(s).


7. The Court shall maintain jurisdiction of this matter for the purpose of enforcing the Consent Injunction.

IT IS HEREBY ORDERED THIS 30<sup>th</sup> DAY OF August, 2005.

  
Honorable Bernice Bouie Donald  
United States District Judge

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Douglas F. Halijan  
Attorney for Plaintiff,  
ThyssenKrupp Elevator Manufacturing Co., Inc.

  
\_\_\_\_\_  
Edward M. Bearman  
Attorney for Defendant, Michael Sutton



## Notice of Distribution

This notice confirms a copy of the document docketed as number 14 in case 2:05-CV-02317 was distributed by fax, mail, or direct printing on September 6, 2005 to the parties listed.

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Honorable Bernice Donald  
US DISTRICT COURT